

SENATE BILL 361

D3

6lr0438

By: **Senators Raskin and Zirkin**

Introduced and read first time: January 28, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Hydraulic Fracturing Liability Act**

3 FOR the purpose of providing that a certain permittee is strictly liable for any injury, death,
4 or loss to person or property caused by the hydraulic fracturing activities of the
5 permittee; establishing that compliance with certain standards, laws, and permit
6 conditions is not a defense to a certain action; voiding a provision of a certain contract
7 or agreement that attempts or purports to waive certain rights or reduce certain
8 liability as against public policy; providing for the treatment of certain information
9 relating to a chemical constituent used in hydraulic fracturing for the purposes of a
10 certain action; authorizing a certain plaintiff to recover certain economic and
11 noneconomic damages; authorizing a court to award punitive damages under certain
12 circumstances; altering the amount of certain insurance coverage a certain permittee
13 is required to maintain; extending the length of time a certain permittee must
14 maintain certain insurance coverage; defining certain terms; and generally relating
15 to civil actions arising from hydraulic fracturing activities.

16 BY adding to

17 Article – Courts and Judicial Proceedings

18 Section 3–2101 through 3–2106 to be under the new subtitle “Subtitle 21. Hydraulic
19 Fracturing Liability Act”

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Environment

24 Section 14–111(a)(6) and (7) and (b)

25 Annotated Code of Maryland

26 (2014 Replacement Volume and 2015 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

28 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Courts and Judicial Proceedings**

2 **SUBTITLE 21. HYDRAULIC FRACTURING LIABILITY ACT.**

3 **3–2101.**

4 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
5 **INDICATED.**

6 **(B) “HYDRAULIC FRACTURING” MEANS A DRILLING TECHNIQUE THAT**
7 **EXPANDS EXISTING FRACTURES OR CREATES NEW FRACTURES IN ROCK BY**
8 **INJECTING FLUIDS, OFTEN A MIXTURE OF WATER AND CHEMICALS, SAND, OR**
9 **OTHER SUBSTANCES, AND OFTEN UNDER PRESSURE, INTO OR UNDERNEATH THE**
10 **SURFACE OF THE ROCK FOR PURPOSES THAT INCLUDE WELL DRILLING AND THE**
11 **EXPLORATION OR PRODUCTION OF NATURAL GAS.**

12 **(C) “HYDRAULIC FRACTURING ACTIVITY” MEANS THE FOLLOWING**
13 **ACTIVITIES RELATED TO HYDRAULIC FRACTURING:**

14 **(1) WELL DRILLING;**

15 **(2) THE EXPLORATION OR PRODUCTION OF NATURAL GAS; AND**

16 **(3) THE STORAGE, TREATMENT, OR TRANSPORT OF ANY:**

17 **(I) NATURAL GAS PRODUCED BY HYDRAULIC FRACTURING;**

18 **(II) CHEMICAL COMPONENT USED IN HYDRAULIC FRACTURING;**

19 **OR**

20 **(III) WASTE FROM HYDRAULIC FRACTURING, INCLUDING**
21 **PRODUCED WATERS.**

22 **(D) (1) “NATURAL GAS” MEANS ANY HYDROCARBON OR**
23 **NONHYDROCARBON GAS THAT IS PRODUCED FROM A NATURAL RESERVOIR.**

24 **(2) “NATURAL GAS” INCLUDES:**

25 **(I) CARBON DIOXIDE;**

26 **(II) CASINGHEAD GAS;**

27 **(III) HELIUM;**

1 (IV) HYDROGEN;

2 (V) HYDROGEN SULFIDE; AND

3 (VI) NITROGEN.

4 (E) "PERMITTEE" MEANS A PERSON THAT HOLDS A PERMIT ISSUED UNDER
5 § 14-104 OF THE ENVIRONMENT ARTICLE FOR NATURAL GAS EXPLORATION OR
6 PRODUCTION.

7 3-2102.

8 (A) A PERMITTEE IS STRICTLY LIABLE FOR ANY INJURY, DEATH, OR LOSS TO
9 PERSON OR PROPERTY THAT IS CAUSED BY THE HYDRAULIC FRACTURING
10 ACTIVITIES OF THE PERMITTEE.

11 (B) IT IS NOT A DEFENSE TO AN ACTION UNDER THIS SUBTITLE THAT THE
12 HYDRAULIC FRACTURING ACTIVITIES OF THE PERMITTEE WERE IN COMPLIANCE
13 WITH:

14 (1) INDUSTRY STANDARDS;

15 (2) STATE OR FEDERAL LAW; OR

16 (3) THE CONDITIONS OF ANY PERMIT ISSUED TO THE PERMITTEE BY
17 A STATE OR FEDERAL AGENCY.

18 3-2103.

19 A PROVISION IN ANY CONTRACT OR AGREEMENT THAT ATTEMPTS OR
20 PURPORTS TO WAIVE THE RIGHT TO BRING AN ACTION AGAINST A PERMITTEE
21 UNDER THIS SUBTITLE OR REDUCE ANY LIABILITY FOR INJURY, DEATH, OR LOSS TO
22 PERSON OR PROPERTY THAT IS CAUSED BY THE HYDRAULIC FRACTURING
23 ACTIVITIES OF A PERMITTEE IS VOID AS AGAINST PUBLIC POLICY.

24 3-2104.

25 FOR THE PURPOSE OF AN ACTION BROUGHT AGAINST A PERMITTEE,
26 INFORMATION RELATING TO ANY CHEMICAL CONSTITUENT USED IN HYDRAULIC
27 FRACTURING IS:

28 (1) NOT PROTECTED AS A TRADE SECRET;

1 (1) The gas or oil well has been properly sealed and plugged; and

2 (2) The site has been reclaimed.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2016.